

## REMARKS/ARGUMENTS

Responsive to the Office Action mailed October 5, 2005:

### I. PRIOR ART MATTERS

- A. The Office Action rejected claims 1-10 under 35 USC 102(e) as being anticipated by Meagher. Applicant respectfully traverses this rejection.

A single prior art reference anticipates a claimed invention only if it discloses each and every claim element.<sup>1</sup>

As to new claim 11, Meagher does not disclose:

(b) a bottom section for flush positioning to said surface, the bottom section forming an acute angle with the top section such that the top section is substantially horizontal when the bottom section is in flush relation with said surface;

(c) an arcuate front section;

(d) the top section, the bottom section, and the arcuate front section forming a sector-like closed loop;

(e) a closed-loop reinforcement web assembled against the top section, the bottom section, and the arcuate front section;

Claim 11 is therefore allowable.

Claims 12-15 contain additional elements or limitations beyond allowable claim 11.

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<sup>1</sup> *Structural Rubber Prod. Co. v. Park Rubber Co.*, 749 F.2d 707, 223 USPQ 1264 (Fed. Cir. 1984)

- B. The Office Action rejected claims 1-10 under 35 USC 102(e) as being anticipated by Wack. Applicant respectfully traverses this rejection.

As to new claim 11, Wack does not disclose:

- (b) a bottom section for flush positioning to said surface, the bottom section forming an acute angle with the top section such that the top section is substantially horizontal when the bottom section is in flush relation with said surface;
- (c) an arcuate front section;
- (f) at least one bracing member for securing the bracket to the structural member.

Claim 11 is therefore allowable.

Claims 12-15 contain additional elements or limitations beyond allowable claim 11.

- C. The Office Action rejected claims 1-10 under 35 USC 102(b) as being anticipated by Vochatzer. Applicant respectfully traverses this rejection.

As to new claim 11, Vochatzer does not disclose:

- (c) an arcuate front section;
- (d) the top section, the bottom section, and the arcuate front section forming a sector-like closed loop;
- (e) a closed-loop reinforcement web assembled against the top section, the bottom section, and the arcuate front section;

Claim 11 is therefore allowable.

Claims 12-15 contain additional elements or limitations beyond allowable claim 11.

D. The Office Action rejected claims 1-10 under 35 USC 102(b) as being anticipated by Gobeil. Applicant respectfully traverses this rejection.

As to new claim 11, Gobeil does not disclose:

(b) a bottom section for flush positioning to said surface, the bottom section forming an acute angle with the top section such that the top section is substantially horizontal when the bottom section is in flush relation with said surface;

(c) an arcuate front section;

(d) the top section, the bottom section, and the arcuate front section forming a sector-like closed loop;

(e) a closed-loop reinforcement web assembled against the top section, the bottom section, and the arcuate front section;

Claim 11 is therefore allowable.

Claims 12-15 contain additional elements or limitations beyond allowable claim 11.

Applicant submits that these claims do not introduce new matter. All elements would be understood by one of ordinary skill in the art by referencing the drawings, text, and claims as originally submitted.

Applicant notes that the term “sector-like” in element (d) of claim 11 is not defined in the Specification. However, a dictionary definition of “sector” is:

The portion of a circle bounded by two radii and one of the intercepted arcs.<sup>2</sup>

That the claim term “sector-like” reads on this definition is clearly visible from Figures 1 and 3.

**Advantages of these features:**

1. A bottom section for flush positioning to said surface, the bottom section forming an acute angle with the top section such that the top section is substantially horizontal when the bottom section is in flush relation with said surface

This feature facilitates the construction of the stairway. In order to ensure that the top section is horizontal, the user needs only to incline the structural member to a predetermined angle that compliments the angle between the top and bottom sections so that the two angles add up to 90 degrees. Then, by positioning the bottom section in flush relation with the surface of the structural member, the top section is automatically horizontal.

This is much easier and more time efficient than using levels, or methods such as those used in US Patent No. 6,230,454 to Meagher (See Column 3, Lines 18 - 21), and US Patent No. 6,758,016 to Gobeil (See Column 2, Lines 57 - 61; and Column 3, Line 64 - Column 4, Line 4).

2. An arcuate front section

Certain building codes (such as the Canadian National Building Code) apply to the construction of stairways. The steps must have a certain width (“step run”) and a certain height (“step rise”) - Cited US Patent No. 6,758,016 to Gobeil discusses this subject. See Column 2, Lines 39 - 47. The arcuate front section provides for more foot room (more horizontal surface area per step) in a stairway with the same step run and same step rise than a conventional flat-front stairway. The arcuate-front stairway also has an aesthetical advantage.

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<sup>2</sup> The American Heritage Dictionary, Second College Edition.

3. A sector-like closed loop

This provides for more resilient brackets than open-loop brackets (such as the one disclosed in US Patent No. 4,709,520 to Vochatzer), especially before installment - during shipping.

4. A closed-loop reinforcement web

The feature has a self-explanatory advantage: it reinforces the bracket so it could carry more weight without breaking or deformation.

For the above reasons, Applicant respectfully requests the allowance of all claims and the issuance of a Notice of Allowance.

Respectfully submitted,

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By 

Gerald E. Helget (Reg. No. 30,948)

Nelson R. Capes (Reg. No. 37,106)

BRIGGS AND MORGAN, P.A.

2200 IDS Center

80 South Eighth Street

Minneapolis, MN 55402

Telephone: (612) 977-8480